

OFFICIAL FILE
ILLINOIS COMMERCE COMMISSION

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

CHIEF CLERK'S OFFICE

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ICC No. 02-0384

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RESPONDENT'S MOTION TO COMPEL DISCOVERY

NOW COMES RESPONDENT, The Peoples Gas Light and Coke Company ("Peoples Gas"), by and through its attorneys, McGuireWoods LLP, and pursuant to Sections 200.190 and 200.370 of the Illinois Commerce Commission ("Commission") Rules of Practice ("Rules"), 83 Ill. Adm. Code 200.10 et seq., hereby requests the Administrative Law Judge (the "Judge") to issue a ruling at the May 20, 2004 hearing in this proceeding compelling Complainant to answer and respond to all outstanding discovery. In support of its motion, Peoples Gas states as follows:

1. On May 29, 2002, Complainant filed a formal complaint with the Commission regarding Case No. 02-0472.
2. On July 24, 2003, during a status hearing, Administrative Law Judge Sainsot set a discovery schedule, per agreement of the parties, that required the parties to propound any discovery by August 8, 2003 and respond to such discovery by September 9, 2003.
3. On August 8, 2003, Peoples Gas propounded "Respondent's First Set of Data Requests to Complainant," by first-class mail, postage paid. A copy of the Data Requests is attached hereto as Exhibit A.

4. As of today, Complainant has yet to make any response to Peoples Gas's data requests.

5. On several occasions, including at a December 16, 2003 status hearing in this matter, the parties agreed that Complainant would respond to Peoples Gas's data requests, without objection, no later than January 29, 2004.

7. Again, at a January 16, 2003 status hearing, Complainant promised to tender discovery without objection. Complainant promised to produce full and complete responses no later than March 1, 2003.

8. When Peoples Gas did not receive Complainant's responses to Peoples Gas's data requests, Peoples Gas's attorney, Brett J. Beattie, contacted Complainant's attorney, David Gaughan by telephone and left a message on Mr. Gaughan's answering machine requesting Complainant's responses.

9. Mr. Gaughan did not return Mr. Beattie's telephone call. Therefore, Mr. Beattie called Mr. Gaughan again, reminding him that a status hearing was set for March 11, 2003 and that Peoples Gas expected Complainant's responses at least by the next status hearing.

10. Subsequently, Mr. Gaughan telephoned Mr. Beattie seeking a continuance of the March 11, 2004 status hearing.

11. During the telephone conversation, on behalf of Peoples Gas, Mr. Beattie agreed to continue the March 11, 2004 status hearing until April 14, 2004, the date proposed by Mr. Gaughan on behalf of Complainant. During this telephone conversation, Mr. Gaughan again agreed that Complainant would promptly respond to Peoples Gas's data requests.

12. On April 12, 2004, Mr. Beattie again contacted Mr. Gaughan by telephone seeking Complainant's responses to Peoples Gas's data requests and left a message on Mr. Gaughan's answering machine requesting that Complainant bring its responses to the April 14, 2004 status hearing.

13. On April 14, 2004, a status hearing was held in this matter as scheduled per agreement of the parties.

14. Complainant failed to attend the April 14, 2004 status hearing.

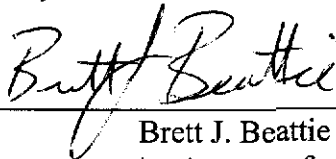
15. On April 19, 2004, Peoples Gas sent Complainant a letter again requesting Complainant's responses to Peoples Gas's data requests. A copy of this letter is attached hereto as Exhibit "B."

16. Complainant has not responded to Peoples Gas's April 19 letter.

17. Over nine (9) months have passed since Peoples Gas promulgated its data requests to Complainant and Complainant has failed to respond even though it has orally agreed that it has no objections to any of the data requests.

WHEREFORE, Respondent respectfully requests that the Judge to issue a ruling on May 20, 2004, compelling Complainant to promptly answer "Respondent's First Set of Data Requests to Complainant."

Respectfully submitted,

By 
Brett J. Beattie
An Attorney for
The Peoples Gas Light and Coke Company

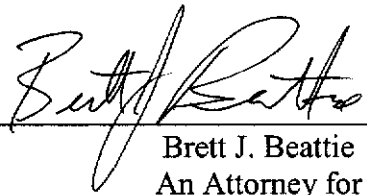
Brett J. Beattie
Counsel to Peoples Gas
McGuireWoods LLP
77 W. Wacker Dr.
Suite 4400
Chicago, IL 60601
Phone: (312) 641.2068

Dated this 18th day of
May, 2004, at Chicago, Illinois

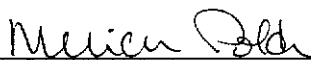
STATE OF ILLINOIS)
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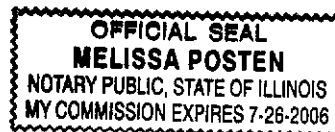
VERIFICATION

I, Brett J. Beattie, being first duly sworn upon oath, depose and say that I have read the above and foregoing Respondent's Motion To Compel Discovery by me subscribed and know the contents thereof; and that said contents are true in substance and in fact.

By 
Brett J. Beattie
An Attorney for
The Peoples Gas Light and Coke Company

SUBSCRIBED and **SWORN** to before
me this 18th day of May 2004


Notary Public

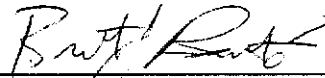


CERTIFICATE OF SERVICE

I hereby certify that I have this day served this Respondent's Motion to Compel Discovery by UPS, by personal delivery or by causing a copy thereof to be placed in the United States mail with first class postage affixed, addressed to the Complainant and the Administrative Law Judge in Docket No. 02-0384. Dated at Chicago, Illinois this 18 th day of May, 2004.

Respectfully submitted,

By



Brett J. Beattie

An Attorney for

The Peoples Gas Light and Coke Company

RONAN HEANEY,
Complainant,

v.

Docket No. 02-0384

THE PEOPLES GAS LIGHT
AND COKE COMPANY,
Respondent.

To: David P. Gaughan
Law Office of David P. Gaughan
6687 N. Northwest Highway
Chicago, Illinois 60631

Dated: May 18, 2004

THE PEOPLES GAS LIGHT AND
COKE COMPANY

By: Brett J. Beattie
Brett J. Beattie, one of its attorneys

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of this **Respondent's Motion to Compel** on Complainant and the Administrative Law Judge by causing a copy to be placed in the U.S. mail, properly addressed and postage prepaid on **May 18, 2004**.

Respectfully Submitted,

By: _____

Brett J. Beattie

Brett J. Beattie
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